

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 22-CR-20552-GAYLES/TORRES

UNITED STATES OF AMERICA

v.

**DAVID RIVERA and
ESTHER NUHFER,**

Defendants.

**UNITED STATES' NOTICE REGARDING ITS PENDING
APPLICATION FOR SECOND PROTECTIVE ORDER**

The United States of America (the "United States"), through the undersigned Assistant United States Attorneys, hereby provides this notice concerning its application for a second protective order. The Government no longer seeks a protective order over Defendant Esther Nuhfer's real properties located at 9425 SW 38 St., Miami, FL, and 82 Tingler Lane, Marathon, FL. The Government continues to seek a protective order over Defendant David Rivera's real property located at 3663 S. Atlantic Ave., Unit 20C, New Smyrna Beach, FL.

On July 14, 2023, the United States filed an ex parte application for a second post-indictment protective order over three real properties: (i) real property located at 3663 S. Atlantic Avenue, Unit 20C, New Smyrna Beach, Florida 32169 [Rivera]; (ii) real property located at 9425 S.W. 38th Street, Miami, Florida 33165 [Nuhfer]; and (iii) real property located at 82 Tingler Lane, Marathon, Florida 33050 [Nuhfer]. *See* Application, ECF Nos. 79, 80 (the "Application").¹

¹ The United States submitted the Application ex parte but not under seal. In accordance with the Local Rules, the Clerk of the Courts restricted the filing from public view and the docket reflects a restricted filing has been made. See S.D. Fla. L.R. 5.4(d); S.D. Fla. L.R. 5.4(e)(2). Because it is a restricted document, it is unclear whether the Application was docketed at ECF No. 79 or 80.

On July 20, 2023, the Court entered a Second Protective Order for Assets Subject to Forfeiture (“Second Protective Order”) [ECF No. 82] over the three real properties.

On July 21, 2023, Defendants Rivera and Nuhfer jointly moved to vacate the Second Protective Order. *See* Joint Mot., ECF No. 85. The United States filed a response on July 25, 2023 [ECF No. 87], and Defendants filed a reply on July 26, 2023 [ECF No. 89].

On July 28, 2023, the Court held a status conference, during which it heard argument from the parties on the Application. Following the hearing, the Court granted the motion to vacate the Second Protective Order, and allowed Defendants to file responses to the Government’s Application. *See* Minute Entry, ECF No. 91; Order, ECF No. 93. The parties then agreed to extensions of time for Defendants to respond to the Government’s Application, which the Court granted. *See* Unopposed Motions, ECF No. 96, 101, 103; Orders, ECF No. 97, 102, 104.

The Government now provides this notice that it withdraws the Application as to Defendant Nuhfer’s two real properties located at 9425 SW 38 St., Miami, FL and 82 Tingler Lane, Marathon, FL only. The United States has agreed to release the *lis pendens* on Defendant Nuhfer’s two real properties located at 9425 SW 38 St., Miami, FL and 82 Tingler Lane, Marathon, FL, and Defendant Nuhfer has agreed to preserve certain sums of money that may be subject to forfeiture, with each party reserving the right to litigate the forfeiture in the future.

The Government does not withdraw the Application, and continues to seek a protective order over, Defendant Rivera’s real property located at 3663 S. Atlantic Ave., Unit 20C, New Smyrna Beach, FL.

Respectfully submitted,

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